

TRAVEL INSURANCE PRODUCER LICENSING REFORM

February 2014

Background

Multi-state licensing of insurance producers has been a challenging issue for regulators and industry alike for decades. In response, the NAIC developed the Producer Licensing Model Act (PLMA) to reflect the licensing reciprocity requirements of the federal Gramm-Leach-Bliley Act (GLBA) (1999). By 2002, a majority of states had adopted the PLMA. This put in place a more efficient reciprocal licensing framework across the country that enabled producers to more easily obtain non-resident licenses.

These actions, however, have not effectively addressed the practical challenges of multi-state licensing for limited lines travel insurance producers and their non-insurance distributors working in across the country. Indeed, until recently (when states started enacting the travel insurance producer licensing reforms described in this memorandum), there were multiple definitions of travel insurance in the states, some still referencing “steamships,” and 41 different licensing qualification codes needed to be licensed for travel insurance across the states. This made reciprocity almost impossible.

This situation has started to improve. In the last two years, 20 states (including California, Texas and Florida) have implemented the new NAIC/NCOIL travel insurance licensing standards, 17 states have legislation or regulations pending, and we anticipate that the remaining states will consider implementing the standards this year or in 2015 (one state, Iowa, does not require producer licenses for travel insurance). The new NAIC/NCOIL standards, which are more fully described below, give both regulators and the industry a clearer and workable licensing framework for the travel limited lines, while at the same time improving consumer protections and disclosures.

Problems with the Current Limited Lines Travel Insurance Licensing Process in the States Make Compliance Difficult and Costly

The National Association of Insurance Commissioners (NAIC) recognized the problems with limited lines licensing in its February 2008 Producer Licensing Assessment Aggregate Report. The problems stem from regulatory inconsistencies among the states and are driven by a number of underlying factors, reflecting both the realities of the market and the regulatory approaches of the states:

- Non-insurance travel retailers (travel agents) that distribute travel products are not in the business of insurance, nor are they considered so by consumers. The non-insurance travel retailer’s insurance activity is very limited and is not clearly considered “licensable” under the PLMA Guidelines. Moreover, travel insurance products are rarely, if ever, offered by insurance agents who sell major lines of insurance such as property, casualty, or health coverage.

- Consumers and regulators generally treat the licensed insurance provider (insurer, MGA, administrator) as the first responder for questions or complaints, including complaints against retail travel agents, which are few. In fact, in 2012 a leading and representative licensed travel insurance provider had **186 complaints out of 8,700,000 policies sold (0.002%)**.
- The licensed insurance provider is normally clearly identified in the pre-packaged ancillary insurance materials that are distributed to consumers by the travel retailer. These materials are identical or nearly identical to the materials the consumer would get directly from the licensed insurance provider. Moreover, the insurance product is a discretionary buy; it is first party, short-tail coverage; and is offered as an add-on to a retail product or service.
- In the modern marketplace, travel retailers may do business in one state or many; in fact, travel agents cannot reasonably predict the state or states (outside their resident states) in which they might do business – because they could get a call from anywhere for travel services. This is a change from years ago, when travel retailers generally served only their local communities. There are approximately 16,000 travel agent retail locations in the U.S.—nearly 9,000 of which are single location operations. Travel agents average revenue is \$200,000, of which only 1.9% (\$3,800) represents travel insurance.
- A year ago, there were **41 different licensing qualification codes** to get licensed for travel insurance across the states. Exacerbating the problem, many states do not accept any or the same electronic application. Although this has improved as states adopt the new travel insurance licensing law, it commonly takes **6 months to get licensed** to sell travel insurance across the U.S. This makes full compliance nearly impossible in an industry that can suffer high turnover.

Fixing the Problems

The NAIC and the National Conference of Insurance Legislators (NCOIL) have both taken steps to provide a workable solution to resolve the problems and regulatory inconsistencies for travel insurance providers and travel retailers. The NAIC adopted Uniform Licensing Standards (“ULS”) in late 2010, and, in November 2012, NCOIL adopted a model act that would accomplish the same goals as the ULS.

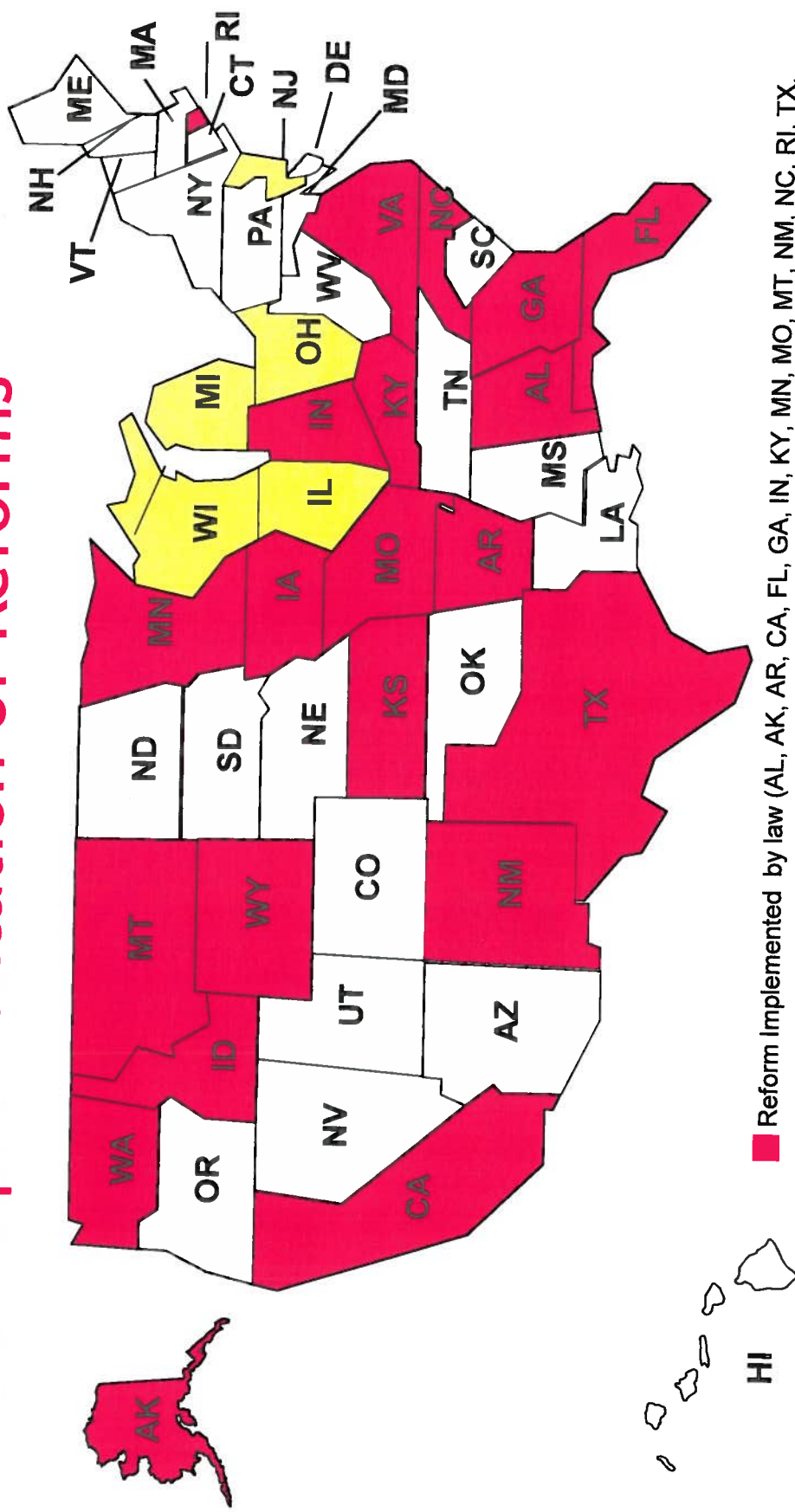
The NAIC’s standards and the NCOIL model act establish a licensing framework that reflects the unique distribution system of travel insurance in the travel industry and appropriately places much of the regulatory burden not on the retail travel agent (who is not, after all, an insurance agent), but on the insurer or managing general agent who develops and distributes the product. The NAIC ULS and the NCOIL model act improve consumer protection by requiring clearer accountability and notice to the consumer and regulator with respect to who is responsible for the sale. They also help bridge the gap between widely accepted regulatory practices in the states and the actual state rules. Moreover, the NAIC ULS and the NCOIL draft model more clearly

distinguish licensable and non-licensable activities for limited lines products such as travel insurance, and promote uniformity to help states more effectively govern these products.

Key elements:

- Non-insurance retailers (“Travel Retailers”) may offer and disseminate travel insurance under a licensed insurance provider (MGA, insurer, administrator), if and only if certain consumer protections are met. These protections include:
 - The licensed business entity is clearly identified as the licensed producer on marketing materials and fulfillment packages distributed by Travel Retailers to customers; identification shall include the entity’s name and contact information;
 - The licensed business entity keeps a register of each Travel Retailer that offers Travel Insurance on the licensed business entity’s behalf. The register shall include the name and contact information of the Travel Retailer and an officer or person who directs or controls the Travel Retailer’s operations, and the Travel Retailer’s Federal Tax Identification Number. The licensed business entity shall also certify that the Travel Retailer registered complies with 18 USC 1033. The licensed business entity shall submit such Register within 30 days upon request by the Commissioner;
 - The licensed business entity has designated one of its employees as a licensed individual producer (a “Designated Responsible Producer” or “DRP”) responsible for the business entity’s compliance with state insurance laws, rules and regulations;
 - The DRP, president, secretary, treasurer, and any other officer or person who directs or controls the licensed business entity’s insurance operations comply with the fingerprinting requirements applicable to insurance producers in the resident state of the business entity;
 - The licensed business entity has paid all applicable insurance producer licensing fees as set-forth in state law;
 - Certain required disclosures are made to purchasers; and
 - The licensed business entity requires each employee of the Travel Retailer whose duties include offering and disseminating Travel Insurance to receive a program of instruction or training, which may be subject to review by the Commissioner.
- If these consumer protections are not met, non-insurance retailers would be required to be licensed separately as licensed limited lines insurance producers.
- The definition of travel insurance is updated, and includes language distinguishing travel insurance from coverages provided for longer term military or ex-pat assignments.
- Licensable and non-licensable activities are more clearly defined for those offering limited lines products.

State Implementation of Reforms



■ Reform Implemented by law (AL, AK, AR, CA, FL, GA, IN, KY, MN, MO, MT, NM, NC, RI, TX, VA, WY) or regulation or other regulatory action (KS, ID, WA); or not needed (IA)

■ Legislation or regulation pending

States pursuing for 2014-15

As of 12/4/13